



## Update – Recording tax and national insurance – dividend payments to former employees of an insolvent entity

Our 'Recording tax and national insurance – preferential dividends' bulletin, sent 9 June 2021, has prompted some further questions. So, we've updated the guidance and added a Question and Answer section. We hope this helps you.

There may be times when you need to record tax and national insurance due on a dividend paid to the former employees of an insolvent entity. For example:

- holiday pay
- arrears of pay arising before the date of insolvency
- pay in lieu of notice claims
- redundancy pay.

Please help us ensure these payments are allocated correctly by setting up a new PAYE Scheme.

- Contact us to set up the Scheme only when you are ready to make the payments
- Once the final dividend payment has been made, please ensure HMRC receives a final Full Payment Submission (FPS) with a cessation date for both the former employee(s) of the insolvent entity to whom a dividend payment was made and the EPA scheme. This will prevent any reminder or late penalty notices being issued, if the scheme remains inactive.

## How do I set up a PAYE Scheme?

Contact HMRC's Employer Helpline on 0300 2003200. Tell the advisor you need to set up an **EPA Scheme** – they will ask you for the following information:

- the name and National Insurance Number (NINO) of directors - if available
- your phone number and email details
- your registered office address
- any other correspondence addresses HMRC may need to note for you
- date of the first pay day.

Our advisor will then ask some more questions and tell you what you'll receive and when.

Once the EPA Scheme is set up, see [PAYE and payroll for employers - GOV.UK](#) for guidance on operating PAYE.

## Making additional payments

If you need to make additional payments after the final FPS has been submitted, please contact HMRC's Employer Helpline who can arrange for the Scheme to be re-started.

This can only be done

- in the same tax year as the date of cessation or cancellation, or
- the next tax year after the date of cessation or cancellation.

For any other year a further scheme will need to be set up.

## Updates to Insolvency Bulletin – April 2020 – Electronic Banking

We have updated the Insolvency Bulletin 'Electronic Banking' issued in April 2020 to include a link to this guidance.

## Questions and Answers

**Q. If an insolvent entity continues to employ employees after the Insolvency Practitioner's (IPs) appointment and makes payments in respect of any sums owed to employees which relate to the pre-insolvency period, should an EPA scheme still be set up for those payments?**

A. Yes

**Q. If an insolvent entity continues to employ employees after the IPs appointment, what scheme should be used when there is tax and national insurance due on employment income accrued both pre and post-Administration?**

### Example

A company goes into Administration on 15 August and its employees are paid monthly in arrears on the last calendar day of the month. The company continues to trade, and the Administrator decides that staff will receive their normal monthly salary payment in full on 31 August. That payment includes:

- their claim for arrears of pay from 1 to 14 August
- post Administration salary from 15 to 31 August.

Other employees may receive holiday pay where entitlement has been accrued both before and after the date of Administration.

A. Where there is tax and national insurance due on employment income earned during both the pre and post Administration period, these should be reported on an EPA Scheme.

**Q. I am concerned that requiring an IP to telephone HMRC's Employer Helpline could result in excessive wait times or speaking to HMRC staff who aren't familiar with Insolvency. Could contact be made instead via a dedicated email address or phone number?**

A. Unfortunately a dedicated e-mail address or phone number is not possible. Internal guidance has been updated to ensure that Employer Helpline advisors have the information they need to deal with requests to set up EPA Schemes.

**Q. If the insolvent entity is a sole trader or a partnership, what information do you require instead of the National Insurance number (NINO) of directors?**

A. NINO of the sole trader or partners.

**Q. Where the address of the registered office is asked for, is this the registered office address of the employer if it was a company or the IPs own firm if he trades through a company?**

A. This is the registered office address of the IP.

**Q. Where the guidance reads, 'any other correspondence addresses HMRC may need to note for you', does that relate to addresses for the IP dealing with the insolvent entity?**

A. This would be an alternative address to the registered office. For example, a registered IP may have several office locations and may wish to nominate one as the correspondence address.

**Q. Where the date of the first pay day is requested, does this refer to the date the former employee was first paid by the insolvent entity or the date of the first dividend payment?**

A. This is the date of the first dividend payment.

**Q. Often, there can be a considerable length of time between dividends being paid in an insolvency. If a second or subsequent dividend is declared more than one tax year after the first, what action should the IP take?**

A. As referenced in the guidance, a scheme can be re-started but only

- in the same tax year as the date of cessation or cancellation, or
- the next tax year after the date of cessation or cancellation.

For any other year, a new scheme will need to be set up.

Please contact HMRC's Employer Helpline on 0300 2003200 to re-start or set up a new scheme.

**Q. Are you able to provide details of a point of contact at HMRC for IPs who have further queries?**

A. If IPs have any further queries about this guidance, they should be directed through R3 or your representative body who will take them forward with HMRC.